

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS (Boston)

3 No. 1:23-cv-10511-WGY
4 Vol 3, Pages 170 - 177

5
6 UNITED STATES OF AMERICA, et al,
7 Plaintiffs

8 vs.

9
10 JETBLUE AIRWAYS CORPORATION, et al,
11 Defendants

12 *****

13
14 For Bench Trial Before:
15 Judge William G. Young

16
17 United States District Court
18 District of Massachusetts (Boston)
19 One Courthouse Way
20 Boston, Massachusetts 02210
21 Monday, November 6, 2023

22 *****

23 REPORTER: RICHARD H. ROMANOW, RPR
24 Official Court Reporter
25 United States District Court
One Courthouse Way, Room 5510, Boston, MA 02210
rhrbulldog@aol.com

A P P E A R A N C E S

EDWARD WILLIAM DUFFY, ESQ.

ARIANNA MARKEL, ESQ.

AARON TEITELBAUM, ESQ.

DOJ-Atr

450 Fifth Street NW, Suite 8000

Washington, DC 20530

(202) 812-4723

Email: Edward.duffy@usdoj.gov

and

WILLIAM T. MATLACK, ESQ.

Attorney General's Office

One Ashburton Place, 18th Floor

Boston, MA 02108

(617) 727-2200

Email: William.matlack@mass.gov

For Plaintiffs United States of America and

The Commonwealth of Massachusetts

RYAN SHORES, ESQ.

Cleary Gottlieb Steen & Hamilton LLP

2112 Pennsylvania Avenue, NW

Washington, DC 20037

(202) 974-1876

Email: Rshores@cgsh.com

and

ELIZABETH M. WRIGHT, ESQ.

Cooley LLP

500 Boylston Street

Boston, MA 02116-3736

(617) 937-2349

Email: Ewright@cooley.com

and

RACHEL MOSSMAN ZIEMINSKI, ESQ.

MICHAEL MITCHELL, ESQ.

Shearman & Sterling LLP

2601 Olive Street, 17th Floor

Dallas, TX 75201

Email: Rachel.zieminski@shearman.com

For Defendant JetBlue Airways Corporation

(Continued.)

(Continued.)

JAY COHEN, ESQ.

ANDREW C. FINCH, ESQ.

Paul, Weiss, Rifkind, Wharton & Garrison

1285 Avenue of the Americas

New York, NY 10019-6064

(212) 373-3000

Email: Jaycohen@paulweiss.com

For Defendant Spirit Airlines, Inc.

1 P R O C E E D I N G S

2 (Begins, 2:15 p.m.)

3 THE CLERK: Now hearing Civil Matter 23-10511, the
4 United States versus JetBlue, et al.

5 THE COURT: Just a word about how I do a view. A
6 view is an appropriate source of evidence. You'll all
7 be on the record. The way I do it, I get -- I guess
8 it's the defense that wanted the view, so the defense
9 will go first.

10 It's appropriate to ask me -- it's appropriate for
11 you to point out anything you'd like me to observe. I
12 assume you want me to sit in the seats, and I want to
13 sit in the seats, and you can just go ahead and point
14 out anything you want to point out.

15 Once both defendants have had a chance to draw my
16 attention to this or that, the government may do
17 likewise, the same sort of thing. And once we've done
18 that, that's it for the view.

19 I don't think it's testimonial if you remind me
20 which seats are which seats. We've had testimony about
21 the different seats.

22 So with that in mind, I'll turn to the defense and
23 you can go right ahead.

24 MR. SHORES: Yes, your Honor.

25 So as a reminder, these are the Spirit Acro seats

1 that we've heard testimony about. A-C-R-O. Acro 6.
2 And these to the left are the JetBlue Meridian seats.
3 (Indicates.) As we heard, the Meridian seats are on
4 most of JetBlue's planes.

5 And between them is what's called the "pitch" of
6 the seat, that is between the front and the back. And
7 on the JetBlue seats, the pitch is 32 inches, and you'll
8 have an opportunity to sit in the seats and experiment.
9 And on the Spirit planes, it's 28 inches.

10 And also you've heard testimony about the width of
11 the seats between the arm rests. And on the JetBlue
12 Meridian seats, it's at least 18 inches width between
13 the arm rests. And on the Spirit Acro 6 seats, it's 17
14 inches on the aisle and on the window.

15 And then if you go behind, if we could walk
16 behind, I'll show you some of the other features.

17 So as you can see, the JetBlue Meridian seats have
18 built-in entertainment. This was the subject of the
19 testimony of Mr. Hayes. It also has free WIFI. You can
20 see this symbol here, that's the WIFI symbol. And there
21 are power outlets at the bottom of these seats.

22 (Indicates.)

23 And, um, it was the testimony that none of those
24 features are reflected on the standard Spirit seats.

25 THE COURT: Mr. Cohen, do you want to add

1 anything?

2 MR. COHEN: No, I think Mr. Shores has covered
3 everything, thank you, your Honor.

4 THE COURT: Mr. Duffy, anything?

5 MR. DUFFY: A few things.

6 The row of the Spirit seats, as Mr. Klein's was
7 testifying, is a bulkhead row. There's essentially one
8 of these rows in the cabin on Spirit. In every other
9 row, except for the big front seat, would be like this.
10 So the trade table and that arm rest does make these
11 seats narrower than the typical Spirit seat. So this is
12 the more reflective front.

13 And the other thing I would point out is the width
14 is different between the seats, it's actually 18 1/2
15 inches to the middle seat, 17 1/2 for the window and the
16 aisle.

17 And then I think it's obvious, but the JetBlue
18 seats do recline, whereas the Spirit seats have got a
19 prereclined angle.

20 Mr. Shores pointed out the pitch, which is 32
21 inches for the JetBlue seats, 28 inches for the Spirit
22 seats. And if you recall Mr. Klein's testimony, that
23 the Spirit seats are designed such that the leg room
24 feels like more given the way they are curved, just to
25 point that out.

1 THE COURT: Thank you.

2 I'm going to clamor around the seat and after I've
3 done that, if anyone wants to point anything out, feel
4 free.

5 (Walks around the seats and looks.)

6 (Sits in seats.)

7 THE COURT: Anything else?

8 The defense?

9 MR. SHORES: No, your Honor.

10 MR. DUFFY: Nothing from us, your Honor.

11 (Ends, 2:30 p.m.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER,
do hereby certify that the foregoing record is a true
and accurate transcription of my stenographic notes
before Judge William G. Young, on Monday, November 6,
2023, to the best of my skill and ability.

/s/ Richard H. Romanow 11-06-23

RICHARD H. ROMANOW Date